

DOCKET NUMBER 116-2

1 L. Scott Keehn, SBN 61691
Leslie F. Keehn, SBN 199153
2 **KEEHN & ASSOCIATES**
A Professional Corporation
3 402 West Broadway, Suite 1210
San Diego, California 92101
4 Telephone: (619) 400-2200
5 Attorneys for **Petitioning Creditors**

6
7
8 **UNITED STATES BANKRUPTCY COURT**
9 **FOR THE SOUTHERN DISTRICT OF CALIFORNIA**
10

11 In Re:) Case No. 05-05926-PBINV
12)
FRANCIS J. LOPEZ,) **EVIDENTIARY OBJECTIONS TO THE**
13) **DECLARATION OF FRANCIS J. LOPEZ**
Alleged Debtor.) **[BIFURCATED PHASE II]**
14)
15) Date: November 19, 2007
Time: 2:00 p.m.
16) Judge: The Honorable Peter W. Bowie
Ctrm: 4
17)
18)

19 **TO: THE HONORABLE PETER W. BOWIE, UNITED STATES BANKRUPTCY**
20 **JUDGE:**

21 Petitioning Creditors herein respectfully submit the following evidentiary objections, and
22 hereby move to strike the specified portions of the "Declaration of Francis J. Lopez" submitted in
23 support of his "Opposition of Alleged Debtor to Motion for Sanctions" (the "Lopez Declaration").

24 **REQUEST FOR RULING ON OBJECTIONS AND MOTION TO STRIKE**

25 Petitioning Creditors respectfully request that this Court issue rulings on the following
26 evidentiary objections and motion to strike prior to ruling on the merits of their Motion.

27 ///

28 ///

EVIDENTIARY OBJECTIONS

Pursuant to the Federal Rules of Evidence ("FRE"), made applicable herein by Rule 9017 of the Federal Rules of Bankruptcy Procedure, Paragraphs 7 - 10 of the Lopez Declaration should be stricken in their entirety.

Paragraphs 7 - 10 of the Lopez Declaration all pertain to the specific questions asked in Lopez's deposition conducted on October 22, 2007.¹ None of Lopez's proffered statements and opinions about those deposition questions has any bearing on the issues raised in this Motion. For example, nowhere in Paragraphs 7 - 10 does Lopez address either: (a) his failure to give reasonable notice of his purported "inability" to appear for his deposition, originally noticed for September 11, 2007, or (b) his extensive history of unreasonable delay and *game playing* as set forth in this Motion and its supporting Declarations. In sum, Paragraphs 7 - 10 are simply irrelevant and should be stricken in their entirety. FRE 402.

Beyond that, Lopez is not qualified to opine on Petitioning Creditors' legal strategy. FRE 701. In Paragraphs 7 - 10 of the Lopez Declaration, Lopez claims that some of the questions asked in his deposition were part of an improper *fishing expedition* related to other cases pending against him, but he fails to set forth facts establishing that he is competent to proffer such an opinion. Without the requisite foundation, the statements are improper and should be stricken. FRE 701.

Dated: November 13, 2007

KEEHN & ASSOCIATES
A Professional Corporation

By: //s// L. Scott Keehn
L. Scott Keehn
Attorneys for **Petitioning Creditors**

¹ See, Declaration of Francis Lopez, pages 4 - 5.